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Sectionalism, Slavery, and the Threat of War in Josiah Quincy Jr.'s 1773 *Southern Journal*

DANIEL R. COQUILLETTE

Were I to lament anything, it would be the prevalent and extended ignorance of one colony of the concerns of another.

These are but a small part of the mischief of Slavery — new ones are every day arising — futurity will produce more and greater.

—Josiah Quincy Jr., *Southern Journal, 1773*

On 8 February 1773, Josiah Quincy Jr. (1744–75), a twenty-eight-year-old Boston lawyer suffering from tuberculosis, set sail for Charleston, South Carolina. For the sake of his health, he was eager to escape the harsh New England winter, but he would not be idle during his southern journey. A member of the Boston Committee of Correspondence, Quincy would explore means of improving communication among like-minded patriots. He would also take his measure of sectional differences and gauge the degree to which the colonies had sufficient shared interests and mutual trust to respond with one voice to the mounting crisis with England. The delicacy of his task and the demand upon his diplomatic skills were obvious on

The present essay is an extracted and modified version of my introduction to volume 2 of *Portrait of a Patriot: The Major Political and Legal Papers of Josiah Quincy Junior*, ed. Daniel R. Coquillette and Neil L. York (Boston: Colonial Society of Massachusetts, forthcoming autumn 2006). In treating Quincy’s experience of Virginia, Maryland, Pennsylvania, Delaware, New York, and Rhode Island, the fuller introduction offers a more broadly based comparative analysis of the institutions he observed and examined in the course of his travels. I would like to thank my able research assistants, Nicole Scimone, Boston College Law School Class of 2005, Susanna Tobin, Harvard Law School Class of 2004, and, most especially, Michael Hayden, Boston College Law School Class of 2004, who prepared the transcription of Quincy’s *Southern Journal* and many of the annotations. I am also grateful for the intellectual camaraderie and invaluable assistance of my colleague Neil L. York and for the expert editing of Linda Smith Rhoads.

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the evening of 7 March 1773. At a dinner party Quincy attended in Charleston, guest Thomas Shirley, “a hot sensible flaming tory” and native of England, paraded his views. According to Quincy’s journal account, Shirley announced, “G[reat] B[ritain] would do wisely to renounce the Colonies to the North and leave them a prey to their continental neighbors or foreign powers.” Shirley

[s]trongly urged that the Massachusetts were aiming at sovereignty over the other provinces; that they now took the lead, were assuming, dictatorial etc. “You may depend upon it (added he) that if G[reat] B[ritain] should renounce the Sovereignty of this Continent or if the Colonies shake themselves clear of her Authority that you all (meaning the Carolinas and the other provinces) will have Governors sent you from Boston; Boston aims at Nothing less than the sovereignty of the whole continent; I know it.”

Although Quincy could “see the drift of this discourse,” he was tactful:

I remarked that all this was new to me; that if it was true, it was a great and good ground of distrust and disunion between the colonies; that I could not say what the other provinces had in view or thòt but I was sure that the Inhabitants of the Massachusetts paid a very great respect to all the Sister provinces, that she revered, almost, the leaders in Virginia and much respected those of Carolina.

Shirley shrugged off Quincy’s assurances. “When it comes to the test Boston will give the other provinces the shell and the shadow and keep the substance,” he insisted. “The Company seemed attentive – and incredulous” and “were taking sides” when dinner was called.¹


The present version of the Southern Journal has been transcribed directly from the manuscript at the Massachusetts Historical Society, Boston, located in the Quincy, Wendell, Holmes and Upham Family Papers microfilm P-347, reel 3, ms. QP-61, JQII. The MHS has graciously granted permission to print this new edition. The Southern Journal was first printed in Memoir of the Life of Josiah Quincy Jun. (Boston, 1825),
The fervor of Shirley’s conviction must have given Quincy pause. He had long worried that sectional differences might be exploited by the British to the detriment of the patriot cause. By 30 March 1773, however, Quincy could happily report that some influential Southerners had endorsed cross-colony communication and cooperation: “The plan of Continental correspondence [that is, a cross-colony network of committees of correspondence] highly relished, much wished for and resolved upon, as proper to be pursued” (p. 104). That positive development emboldened him. As he noted later that year, even if the colonists were not able to “think alike,” if ever a union were “truly formed,” they would be “invincible.” Quincy would not live to experience the victory he hardly dared envision. Nor could he foresee that once that victory was secured, the nation thus formed would later succumb to the divisions he had observed in 1773.

Josiah Quincy Jr. was born into one of Massachusetts’ most distinguished families. Although a moderate by temperament, he had embraced the patriot cause by 1767. In September of

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pp. 73–141, a book prepared in large part by Quincy’s granddaughter, Eliza Susan Quincy (1798–1884). She prepared a second edition in 1874, in which the Southern Journal appears at pp. 56–111. Both versions are unreliable. As Eliza Quincy noted, “Some of his particular observations, from the familiarity of our present intercourse, might appear trite and uninteresting, and will be omitted, as also will be, for the most part, all those particular strictures on the nature of the population of the southern colonies, which was most likely to make the deepest impression on an inhabitant of the northern, and by which a stranger, of his turn of mind, could not fail to be peculiarly affected” (pp. 72–73). Needless to say, these omissions include a good deal of interesting material. For a full account of Eliza Quincy’s literary activity, see Neil L. York’s “Maxims for a Patriot: Josiah Quincy Junior and His Commonplace Book,” in volume 1 of Portrait of a Patriot: The Major Political and Legal Papers of Josiah Quincy Junior, ed. Daniel R. Coquillette and Neil L. York (Boston: Colonial Society of Massachusetts, 2005), pp. 10–12. An unexpurgated version of the Southern Journal, edited by Mark Antony DeWolfe Howe, appeared in the Proceedings of the Massachusetts Historical Society, vol. 49 (Boston: Massachusetts Historical Society, 1916), pp. 426–81. The new Colonial Society edition retains Quincy’s original pagination and Howe’s notes, while adding many new illustrations and annotations.

1Portrait of a Patriot, 1:31.
that year, his first political piece was published in the *Boston Gazette* under the byline Hyperion; many more, carrying differing pseudonyms, would follow. A well-respected litigator, Quincy agreed to defend Captain Thomas Preston and his soldiers in the aftermath of the Boston “massacre,” an assignment he shared with his cousin by marriage, John Adams. Quincy was active in local affairs, and when the Boston town meeting established a committee of correspondence in November 1772 to circulate information about responses to England’s oppressive measures, he pledged, with nineteen other men, to encourage the exchange of information among other towns in the province. Along with Samuel Adams and James Otis, he drafted a statement of rights on behalf of the Boston committee. “Among the natural Rights of all the Colonists are three,” they asserted: “First a Right to Life; Secondly to Liberty; thirdly to Property.”

The late winter journey Quincy had planned for himself in 1773 was designed to promote the colonial cause and, possibly, aid his weak health. He would take a direct coastal voyage to Charleston and for a time enjoy the South’s mild weather and glorious peach blossoms. Then he would follow the spring north, traveling from Charleston by horse along the primary communication and trade routes connecting the era’s major American cities: Williamsburg, Baltimore, Philadelphia, Wilmington, New York, Newport, and Boston. Quincy set sail from Boston on a Bristol packet, a fast boat designed to carry mail, but he did not enter Charleston harbor until almost three weeks later, on 28 February. He had been sick and frightened, delayed by a major storm off the coast of North Carolina, “in the latitude of the Bermudas,” where his eldest brother Edmund had died in 1768 on a voyage to Barbados.

“I believe every soul on board expected to perish” (p. 28), Quincy later commented. There was no “sight of the sun” for “upwards of an 100-hour,” so navigation was impossible. When the vessel came within sight of the coast, Quincy observed that

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3*Portrait of a Patriot*, 1:19, 22, 27.
“whether this land was off the Barr of Carolina, off Roman Shoals or the Bahama Sands was altogether uncertain to every person on board” (p. 34). Finally, after six days, the storm abated, and the packet was found to be south of Charleston. Even after it crossed the Charleston bar, a stiff headwind forced it to take “the whole day beating up” to the port (p. 41).

Once he disembarked, Quincy had difficulty finding lodgings, but a “Mr. Lavinus Clarkson to whom I had Letters . . . politely attended me to introduce me to those to whom I had Letters of recommendation” (p. 42). While in Charleston, Quincy stayed in lodgings that Clarkson had obtained for him, but when outside its precincts, he was frequently invited to be a guest in the homes of those to whom he had letters of introduction, letters procured originally in Boston or later in the course of his journey. Through this elite network, Quincy attended dinners, musical soirées, church services, horse races, and other social events that gave him ample opportunity to observe the mores, temperaments, and characters of his southern hosts and to learn about their institutions. Although he was always gracious in the midst of an occasion, when Quincy returned to his journal, he recorded his distrust of the Carolinas and their religious, political, social, economic, and racial arrangements—a distrust that rivaled Thomas Shirley’s concerns about the North.

Soon after arriving in Charleston, Quincy visited St. Phillip’s Church, an Anglican citadel. He registered his observations: number of attendees—“very few”; how prayers were read—“with the most gay, indifferent and gallant air imaginable”; congregation’s deportment during hymns—“[v]ery few men [stand] and no women”; length of the sermon—very short from the Congregationalist’s point of view, 17½ minutes, on Job 22.21. Finally, “it was very common in prayer as well as sermon-time to see gentlemen conversing together” (pp. 51–52).

Quincy’s generally low opinion of the established Anglican Church in the South was directly related to his perception of the casualness with which its parishioners approached religion.
Observation of the Sabbath was a central tenet of Congregationalism, but in the South, Quincy recorded,

The Sabbath is a day of visiting & mirth with the Rich, and of license, pastime and frolic for the negroes. The blacks I saw in great numbers playing pawpaw, huzzle-cap, push penny, and quarrelling round the doors of the Churches in service time. . . . The slaves who don’t frolic on the Sabbath, do all kinds of work for themselves on hire. [P. 89]

From 26 March 1773 to about 6 April 1773, Quincy rode north through North Carolina. He stayed at the homes of men like William Hill, “a most sensible, polite gentleman: tho’ a Crown officer” (p. 96). Quincy also visited, among other places, Fort Johnston, Brunswick, Wilmington, New Bern, and Bath. North Carolinians were no better in honoring the Sabbath than South Carolinians. More broadly, Quincy found “a pretty near resemblance between the two Colonies: I mean the State of Religion. At a low ebb indeed in both Provinces” (p. 111). Having observed the practice of religion in the Carolinas, Quincy concluded that established Anglicanism was a bane not because it imposed and enforced piety on an unwilling populace but, rather, because worshipers were content with a merely perfunctory show of faithfulness.

As a lawyer living in politically challenging times, Quincy was especially interested in the judicial and legislative organization of the Carolinas. While in South Carolina, he received “complimentary visits” from several of the leading “Gentlemen of the Bar.” One, Charles Cotesworth Pinckney (1746–1825), whom Quincy called “a man of bright natural power” (p. 61), had matriculated at Christ Church College, Oxford, and had studied in the Middle Temple, one of London’s Inns of Court. Unlike in 1770s Boston—where law was learned locally through apprenticeship and the experience of building commonplace books4—

*Quincy’s Southern Journal predated by eleven years the founding (1784) of America’s first professional law school, the Litchfield Law School of Litchfield, Connecticut, and by a generation the founding (1817) of the oldest surviving American law school at Harvard. Quincy’s legal training is discussed at length in my “Introduction to the Law
“few of the prosperous inhabitants . . . of Charleston had not crossed the Atlantic before the American Revolution and . . . sons of successful planters, merchants and professional men were sent to England for their education and general culture” (p. 61).

Despite its practitioners’ educational privilege, however, South Carolina’s legal culture was not, in Quincy’s view, very sophisticated. The Inns of Court were in decline, and there were few local books in the colony. Pinckney had presented him with “the only digest of the laws of the province,” William Simpson’s *The Practical Justice of the Peace, and Parish-officer of . . . South Carolina*, then twelve years out of date.5 “Worse, there is no collection of the Laws of this Province in a book to be had,” Quincy complained (p. 61).6 “No wonder their lawyers make from £2000 to £3000 sterling a year!” he quipped (p. 61). Quincy’s dismay was understandable. For well over a century, ever since “The Body of Liberties” was established in 1641, the laws governing Massachusetts had been published. Quincy recognized that a truly professional culture required a professional literature. Where might lawyers, litigants, and judges look for

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6Quincy may have been a bit unkind to South Carolina’s legal culture. In 1736 Nicholas Trott, “Chief Justice of the Province of South Carolina,” had published *The Laws of the Province of South Carolina* (Charleston, 1736), in two parts, including the “Two Charters granted by Charles II to the Lord Proprietors of South Carolina” and the Act of Parliament in which these proprietors surrendered “their Title and Interest to His Majesty.” Earlier, in 1721, Trott had published *The Laws of the British Plantations in America Relating to the Church and the Clergy, Religion and Learning* (London, 1731). But there was no regular publication of the statutory law, as in Massachusetts. See my “Radical Lawmakers in Colonial Massachusetts: The ‘Countenance of Authoritie’ and the *Lawes and Libertyes*,” *New England Quarterly* 67 (1994): 179, 194–206.
guidance if there were no law reports, no treatises, and no printed colonial statutes? If the only published authorities were British, then colonial courts would necessarily be bound by laws others had enacted or, worse, by no law whatsoever.

Because he was convinced that a uniquely colonial legal literature was needed, Quincy began compiling law reports, verbatim accounts of the oral arguments presented before and the decisions issued from the bench of the Massachusetts Superior Court of Judicature, which were intended to be relied upon as legal precedent. Quincy had initiated his project in 1761 and continued it until 1772, when his time became consumed with patriotic and professional responsibilities. Carefully structured, painstakingly cross-referenced, and meticulously indexed, Quincy’s reports indicate how one gifted lawyer in the pre-Revolutionary period understood the colonial practice of the common law. At the time, judicial opinions were rarely written; rather, they were delivered orally from the bench, often with little explanation. In his law reports, then, Quincy focused on the arguments of counsel. He commented freely, often critically, on charges to the grand juries, admissions of counsel to the bar, and even Chief Justice Hutchinson’s appearance in court following the burning of his house in the Stamp Act melee. Many of the arguments Quincy recorded were of the greatest importance, both politically and legally, and featured renowned advocates, such as Jeremy Gridley, Oxenbridge Thacher, Robert Auchmuty, John Adams, Robert Treat Paine, and James Otis. Some of the most famous cases included the Stamp Act Memorial of Boston and parts of the Boston Massacre proceedings. Other cases shed light on consumer protection, bawdy houses, rights of women, early commercial law, and the conduct of public officials.7

7This paragraph is extracted, with slight revision, from Portrait of a Patriot, i:xv–xxvi. Quincy’s law reports will appear as volumes 3 and 4 of Portrait of a Patriot, forthcoming from the Colonial Society of Massachusetts. Quincy’s law reports were not published until 1865. See Josiah Quincy Jr., Reports of Cases Argued and Adjudged in the Superior Court of Judicature of the Province of Massachusetts Bay between 1761 and 1772, ed. Samuel M. Quincy (Boston: Little, Brown, and Company, 1865). See also my “First Flower—the Earliest American Law Reports and the Extraordinary Josiah Quincy, Jr. (1744–1775),” Suffolk University Law Review 30 (1996): i–34.
While in South Carolina, Quincy purchased any printed colonial source he could find, and he spent several days transcribing the manuscript law reports of Edward Rutledge (1749–1800), dating from 1770. Quincy's own legal training, as recorded in his Law Commonplace, focused on exactly those judicial precedents Gordon Wood has found lacking in South Carolina's colonial legal practice. According to Wood, "local social superiority, and not any professional legal expertise, was what gave the [South Carolina] justices the extraordinary discretionary authority they exercised. . . . For their judgments they scarcely worried about English practices or collections of ancient cases; they instead relied on their own untrained but ritualized sense of justice."9 In Massachusetts, on the contrary, judges were obsessed with legal precedent, both English and colonial, often asking lawyers to find "more authority."10

Quincy was also critical of South Carolina for accepting judges appointed by the Crown. The province found itself in this position because its legislature had failed to grant life tenure to its native judges, "men of abilities, fortune and good fame" (p. 67). "Lord Hillsborough [Wills Hill, first Marquis of Downshire (1718–93), Secretary of State for the Colonies, 1768–72] in his zeal for American good," Quincy commented sarcastically, "forthwith sends over, one Chief Justice, and two assistant Justices, IRISHMEN, the other two, was the one a SCOTCHMAN, and the other a WELSHMAN" (pp. 68–69).11


10See, e.g., Dudley v. Dudley (1762), Quincy's Reports, pp. 15–25; Banister v. Henderson (1765), Quincy's Reports, pp. 130–55. Page citations are to the 1865 version, edited by Quincy's great-grandson. The pages of the 1865 edition will be reproduced in the new Colonial Society edition, but extensive annotations, analysis, illustrations, and appendixes will be added.

11Quincy noted that two of the existing state judges had pushed the salary bill through the legislature, only to see their positions assigned to British placemen. "They are now knowing their tongues in rage," he commented (p. 73).
The faults of South Carolina’s legislative and judicial system Quincy laid at the feet of the province’s “Gentlemen,” whom he identified as “planters and merchants . . . mostly men of the turff and gamesters.” “Political enquiries and philosophic disquisitions,” he determined, “are too laborious for them: they have no great passion to shine and blaze in the forum or Senate” (p. 88). “The inhabitants may well be divided into opulent and lordly planters, poor and spiritless peasants and vile slaves” (p. 84). In assessing the composition of the legislature, Quincy asked “But who do they represent?" “The laborer, the mechanic, the tradesman, the farmer, husbandman or yeoman? No. The representatives are almost if not wholly rich planters: — the Planting interest is therefore represented but I conceive nothing else (as it ought to be)” (pp. 85-86).

Even though many of South Carolina’s assemblymen were “staunch Colonists,” they were unreliable patriots (p. 86); their allegiance, Quincy decided, was based on “bad policy on the other side of the water” (p. 86). “Let us suppose,” he posited for the sake of argument, “a change in British policy.”

Compose the Council of the first planters, fill all the Public offices with them — give them the honour of the State, and tho’ they don’t want them, give them it and emoluments also: — introduce Baronies and Lordships — their enormous estates will bear it. What will become of Carolinian freedom? [Pp. 87-88]

Once more betraying his fears that Britain would exploit the arrogance and weakness of the southern plantocracy, Quincy was quick to answer his own question:

The luxury, disipation, life, sentiments and manners, of the leading people naturally tend to make them neglect, dispise [sic], and be careless of the true interests of mankind in general. — Hence we may suppose, that when a different policy is gone into with regard to this people [i.e., were England to flatter and bribe South Carolina’s elite], there will be a very calamitous alteration in the views and conduct of the Planters and therefore also with regard to the true interests of the province. [Pp. 87-88]
Quincy initially found North Carolina more congenial than South Carolina. As he traveled through the northern colony, he noted that “You see husbandmen, yeomen, and white laborers scattered thro’ the country instead of herds of Negroes and tawny slaves” (p. 110). “Healthful countenances and numerous families become more common as you advance North” (p. 110). “Property much more equally diffused,” and the people seemed better educated (p. 110). “Arts and sciences are certainly better understood” (p. 111).

While still in coastal South Carolina, Quincy had heard news of North Carolina’s backcountry “Regulator” uprising. In the western part of the province, small farmers, outraged over the corruption of colonial officials and the imposition of taxes they considered unjust, formed an association to pressure the government. When their grievances were ignored, the Regulators turned to violence. On 16 May 1761, Governor William Tryon’s militia forces met the Regulators at the Battle of Alamance Creek and crushed them. During his sojourn in North Carolina, Quincy learned more about the uprising and its aftermath. For a time, he was the guest of William Hill. Hill was a curious figure, both king’s officer and “staunch whig and colonist.” “Hot and zealous in the Cause of America,” Quincy recorded, Hill “relished the proposed Continental correspondence, promised to promote it and write me by the first opportunity” (p. 96). He offered Quincy a “Tyronist” version of the Regulator movement.

This Gentleman gave me at night a 3 hours minute relation of the motives, views and proceedings of the Regulators, with with [sic] a particular account of the battle of Allamanze, and the proceedings of both parties before and after the action. Being on the field he was able to give me a good account. I begun to change my opinion of the Regulators and Governor Tryon [sic]. [Pp. 96–97]

Quincy, motivated by his whig principles, had initially sided with the backcountrymen who had resisted their corrupt royal governor. But he was also opposed to mob action. He was concerned about the violence of Boston’s Stamp Act riots as well as disruptions of the courts and the law. Hill’s first-person account
drew Quincy to the cause of law and order, but the next day he was confronted with a contrary view.

Breakfasted with Col. Dry, the Collector of the Customs and one of the Council. — A friend to the Regulators and seemingly warm against the measures of British and Continental administrations he gave me an entire different account of things. I am now left to form my own opinion. [P. 97]

Quincy went on to observe how thoroughly the Regulator campaign and the Tyronists’ retaliation had ravaged the colony. “The present state of No[rth] C[arolina] is really envious [i.e., odious]” (p. 116), Quincy declared. “[N]o C[our]ts of any kind sitting or even being in the province” (p. 106).

None can recover their debts except before a single magistrate where the sums are within his jurisdiction, and offenders escape with impunity. The people are in great consternation about the matter: What will be the consequences are problematical: many people, as Lord Bottetourt says “augur ill” on the occasion. [P. 116]

Certainly the state of affairs in North Carolina did not bode well for colonial unity. A movement predicated on resisting authority, such as the colonial protests that had been building since the Sugar Act of 1764, could not, at the same time, tolerate divisions that could be exploited by the British or other enemies.12 Indeed, there were sufficient divisions even had there been no Regulator uprisings. “There is very little, if any kind, of commerce or intercourse between the No[rth] and So[uth] prov of Carolina,” Quincy noted, “and there is very little, if any more, of regard in the Inh[abitant]s of the one Colony for those of the other” (116). If even North and South Carolinians lacked a healthy respect for one another, then what hope was there for New Englanders and Southerners to agree on a common course of action against England’s tyranny?

In assessing Carolinians’ mettle for the fight, Quincy was heartened by their opinions but discouraged by their distractions.

The whole body almost of this people seem averse to the claims and assumptions of the British Legislature over the Colonies; but you will seldom hear even in political conversations any warm or animated expressions against the measures of administration. Their fiercer passions seem to be employed upon their slaves. [Pp. 84–85]

The institution of slavery was not unfamiliar to Quincy. During his lifetime, slaves were held and sold as property in Massachusetts. Quincy recorded two slave cases in his law reports—a dispute about the sale of two mulattoes as slaves in Oliver v. Sale13 and an action to recover the value of goods, i.e., a slave, in Allison v. Cockran14—both of which assumed the legality of slavery. Quincy’s family may even have owned slaves.15 Still, of South Carolina he wrote, “Slavery may truly be said to be the peculiar curse of this land” (p. 91). “There is much among this people of what the world call hospitality and politeness, it may be questioned what proportion there is of true humanity, Christian charity and love” (p. 95).

Quincy was a close factual observer. “Having blended with every order of men as much as was possible and convenient I had considerable opportunity to learn their manners, genius, taste, etc.” (p. 84). His explorations extended to the lives of African Americans. He recorded that “Mr. Joseph Allston had 5 plantations with 100 slaves on each” (p. 82). He noticed that slaves wore a “kind of breeches, scarce sufficient for covering” (p. 80). He inquired about laws affecting blacks (pp. 56–57), sexual relations between the races (pp. 113–14), and cultural and linguistic cross-influences (pp. 92–93).

13See the annotations at Reports, p. 29.
14See the annotations at Reports, p. 94.
15Oscar Reiss reports that “[i]n Boston... a runaway named Josiah Quincy was saved when a mob beat a marshal trying to do his duty” (Blacks in Colonial America [Jefferson, N.C.: McFarland and Company, 1997], p. 194).
Quincy was careful to interrogate the data he was given and to search for his informants’ underlying motives. “A few years ago,” he notes, it was allowed, that the Blacks exceeded the Whites as 17 to 1. There are those who now tell you, that the Slave are not more than 3 to 1, some pretend not so many. But they who talk thus are afraid that the Slaves should by some means discover their superiority: many people express great fears of an insurrection, others treat the idea as chimerical. I took great pains finding much contrariety of opinion to find out the true proportion the best information I could obtain fixes it at about 7 to 1, my own observation leads me to think it much greater. [Pp. 91–92]

Modern scholarship has confirmed Quincy’s view. “[T]he low-country South Carolina planters,” Richard Beeman has determined, were “surrounded and outnumbered by slaves—in some regions by as much as seven or eight to one.”

Where there were fewer slaves and they were better treated—as in North Carolina—they “are of consequence better servants.”

The number of Negroes and slaves are vastly less in No[rth] than So[uth] C[arolina]. Their staple-commodity is not so valuable, being not in so great demand, as the Rice, Indigo, etc. of the South. Hence labor becomes more necessary, and he who has an interest of his own to serve is laborer in the field. Husbandmen and agriculture increase in number and improvement. Industry is up in the woods, at tar, pitch, and turpentine – in the fields plowing, planting, or clearing and fencing the land. Herds and flocks become more numerous, and they resemble not Pharaoh’s lean kine, so much as those of the Prov[ince] I had just left. [P. 109]

Beeman, Varieties of Political Experience, p. 135. See also Reiss, Blacks in Colonial America, who calculates the ratio of whites to blacks in North Carolina at 4 to 1 (p. 115). The 1790 census, the first official census, gave the total white population of South Carolina as 140,178 with 107,094 slaves and only 1,801 free blacks. This, of course, included the backcountry, where slaves were less numerous than on the river plantations. By comparison, there were only 948 slaves in a population of 68,825 in Rhode Island. By 1790, slavery had been abolished in Massachusetts.
Improving the lives of slaves, then, had a beneficial effect on the entire economy, including enhanced agricultural output and a stronger work ethic for laborers of both races.

Quincy recognized that slavery was a powerful institution that affected the white population as well as the black. Betraying little sensitivity to the positive attributes of cross-cultural engagement, Quincy reported that white children raised by black nannies and household servants are early impressed with infamous and destructive ideas, and become extremely vitiated in their manners – they contract a negroish kind of accent, pronunciation, and dialect, as well as ridiculous kind of behavior: – even many of the grown people, and especially the women, are vastly infected with the same disorder. Parents instead of talking to their very young children in the unmeaning way with us, converse to them as tho’ they were speak – to a new imported African. [Pp. 92–93]

While degrading the subordinated blacks, slavery also deprived white yeomen and women of the incentive to work, led to laziness and intellectual torpor among the elites, and created among the men a disturbing moral lassitude. “The enjoyment of a negro or mulatto woman,” Quincy recorded, “is spoken of as quite a common thing; no reluctance, delicacy or shame is made about the matter” (p. 113).

But Quincy’s most perceptive observation was how slavery brutalized the master class along with the slave. “In Charlestown [sic] and so thro’ the Southern prov[ince] I saw much apparent hospitality, much of what is called good-breeding and politeness, and great barbarity” (p. 110). “Applicable indeed to this people and their slaves are the words of Our Milton – ‘Too perfect in their misery, Not one perceive their foul disfigurement’” (p. 91).17

The brutality used towards the slaves has a very bad tendency with reference to the manners of the people, but a much worse with regard

to the youth. They will plead in their excuse – “this severity is necessary.” But whence did or does this necessity arise? From the necessity of having vast multitudes sunk in barbarism, ignorance and the basest and most servile employ! [P. 92]

The institution of slavery, Quincy noted, was grounded in a self-serving interpretation of racial difference. “The Africans are said to be inferior in point of sense and understanding, sentiment and feeling, to the Europeans and other white nations. Hence the one infer a right to enslave the other” (p. 114). But such an essentialized hierarchy was, according to Quincy, a “contradiction of human character” as well as a violation of the will of God (p. 93). “[T]hey would do well to remember that no laws of the (little) creature supercede the laws of the (great) creator,” Quincy warned. “Can the institutions of man make void the decree of GOD!” (p. 94).

The absurdity, and the perniciousness, of the argument for racial superiority was patently obvious. There was so much “intercourse between the whites and blacks,” Quincy noted, specifically between white male masters and black slaves, that racial distinctions were blurring.

A mischief incident to both these prov[inces] [South and North Carolina] is very observable, and very natural to be expected: – the intercourse between the whites and blacks. . . . It is far from being uncommon to see a gentleman at dinner, and his reputed off-spring slave to the master of the table. I myself saw two instances of this, and the company very facetiously would trace the lines, Lineaments and features of the father and mother in the Child, and very accurately point out the more characteristick resemblances. The fathers of neither of them blushed or seem disconcerted. [P. 113]

How could fathers consign their offspring to “bondage and misery”? Quincy wondered.

An African Black labors night and day to collect a small pittance to purchase the freedom of his child: the American or European White man begets his likeness, and with much indifference and dignity of soul sees his progeny in bondage and misery, and makes not one effort to redeem his own blood. – Choice food for Satire – wide field for burlesque – and noble game for wit! – unless the enkindled blood
inflame resentment, wrath and rage; and vent itself in execrations. [P. 114]  

Slavery violated not only natural law—God's will as well as the fundamental human law binding parent to child—but it had an invidious effect on the laws binding man to man.  

From the same cause have their Legislators enacted laws touching negroes, mulattoes and masters which savor more of the policy of Pandemonium than the English constitution:—laws which will stand eternal records of the depravity and contradiction of the human character: laws which would disgrace the tribunal of Scythian, Aral, Hottentot and Barbarian are appealed to in decisions upon life limb and liberty by those who assume the name of Englishmen, freemen and Christians:—the place of trial no doubt is called a Court of Justice and equity— but the Judges have forgot a maxim of English law—*Jura naturalia sunt immutabilia* [the laws of nature are unchangeable]. [Pp. 93–94]  

The worst violations, in Quincy's view, were the harsh summary laws that disregarded the guarantees of due process and jury trial afforded to even the meanest individual living under the jurisdiction of the English common law.¹⁸ Cotesworth Pinckney, whom Quincy would later compliment, explained the laws of South Carolina.  

From him and the rest of the Company I was assured, that by the provincial law of the place any two justices and 3 freeholders might and very often did *instanter* [immediately] upon view or complaint try a negro for any crime, and might and did often award execution of

¹⁸The classic statement of "The Absolute Rights of Individuals" under common law had just been published by William Blackstone, in the first volume of his *Commentaries on the Laws of England* (Oxford, 1765), pp. 117–41. Those rights include "a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation," as guaranteed by the Magna Carta, the Petition of Right, the Bill of Rights, and other key English constitutional documents (pp. 123–25). Blackstone proudly proclaimed that "this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a slave or a negro, the moment he lands in England, falls under the protection of the laws, and with regard to all natural rights becomes eo instante a free man" (p. 123). This doctrine was, of course, not applied in the colonies or even, as a practical matter, in England. For a full discussion of the English constitutional documents, see my *The Anglo-American Legal Heritage*, 2nd ed. (Durham, N.C.: Carolina Academic Press, 2003), pp. 59–63, 311–26, 366–68.
death – issue their warrant and it was done forthwith. Two Gentlemen present said they had issued each warrants several times. This law too was for free as well as slave-Negroes and molattoes. They further informed me, that neither Negroes or molattoes could have a Jury; – that for killing a negro, ever so wantonly, as without any provocation; they gave a late instance of this; that (further) to steal a negro was death, but to kill him was only fineable. Curious laws and policy! I exclaimed. Very true cried the Company but this is the case. [Pp. 56–57]¹⁹

Quincy did not expect that the law would ensure equality. His Law Commonplace carefully described a legal system where women, apprentices, and indentured servants, as well as slaves, enjoyed only limited rights. But there were some rights, both procedural and substantive, that were fundamental to the unwritten English constitution, and these attached to every human being. Ignoring them produced unintended consequences.

Mr. Lynch told me, that he knew several Negroes who had refused to implore a forgiveness when under sentence of death, tho’ a pardon was insured on this easy term. Preferring death to their deplorable state, they died with a temper deserving a better fate. [Pp. 94–95]

Quincy was no radical egalitarian, but he understood that some inequalities directly influence the political nature of a civil society. Thus he observed, while comparing North and South Carolina, that, “[p]roperty is much more equally diffused in one prov[ince] than the other, and this may account, for some, if not all, the differences of Character of the inhabitants” (p. 110). Slavery existed in both Carolinas. Indeed, it existed in Massachusetts. But in South Carolina the extent and invasive

influence of slavery had changed the character of the people for the worse.

Of course, Quincy could not know how great the threat of slavery would be to a young American republic. He certainly observed, however, that slavery lay along the fault line separating North and South, and he understood the danger it posed to any long-term American union. Having recounted the evils of slavery in the present, he uttered words that would be prophetic for its future. “These are but a small part of the mischief of Slavery – new ones are every day arising – futurity will produce more and greater” (p. 94).

We will conclude Quincy’s southern voyage where it began, on the Bristol packet bound for Charleston. One of Quincy’s shipmates, John Alexander Hunter, formerly the “purser on board his majesty’s 20 gun ship of war lying in Boston” (p. 18), had been dismissed from service when he was caught stealing. At one point, Hunter, although bitter about his dismissal, considers his plight philosophically: “Good GOD! . . . why do I complain? What reason had I to expect anything better. A government that is arbitrary is always unjust: a tyranny in one or more is always cruel and unrighteous” (pp. 18–19). Hunter, Quincy explains, “was a man of good natural powers; considerably acquainted with essays and the Belles Lettres, tho’ not learned or conversant with the severer studies [i.e., rigorous subjects]” (pp. 19–20).

Quincy, deciding to test the extent of Hunter’s enlightened views, opens a discussion about “G[reat] B[ritain] and the Colonies. I spoke of the conduct of both; of present measures and of the probable consequences. I hoped hence to draw the general opinions of his Core and also what must have frequently transpired in his company for the last 7 years” (pp. 19–20). Hunter rose to the challenge.

Very true, said he, Mr. Q[uincy] we all know this. Great Britain has no right to tax you. The ministry know it as well as you, but money must be had some where. Every thing is strained to the utmost at home.
The people of England see, as well as you, that N[orth] America must one day be independent, and tis her interest and most certainly of the present administration to prevent this as much as possible: And they will prevent it for a much longer time than you imagine. For you can’t contend with the powers of Britain, whose navy conquers the World; and your first men are all bought off and will be more and more so in proportion as the ministry are wise and well informed. And who can blame them for it, they are in the right of it to do it, and you are in the right of it to make opposition, but all will not do. You must submit for a great while yet to come. Why all the world are slaves, and N[orth] America can’t hope to be free. [Pp. 20–21]

“I almost stormed,” Quincy wrote in his journal. “The agitation did my health good, if nothing more; for I wanted my blood to circulate” (p. 21).

Upon my telling him, that the present steps of the British government were to the last degree iniquitous, repugnant to the first notions of right and wrong: – “Oh Mr. Q[unicy] (he replied) what do you tell of that for, there can be no government without fraud and injustice! – All government is founded in corruption. The British government is so. There is no doing without it in State-affairs.” [Pp. 21–22]

This was, for Quincy, the “clencher.” He replied,

Well I hope Mr. H[unter] you will never more complain of arbitrary proceedings and wrong and cruelty seeing such is the government you have served and are now raging to be employed by. “Yes, yes, when it touches one’s-self, we have rights to complain. Damn it, was ever any one served as I have been? Admiral M. has himself to my knowledge done ten times as bad, and yet the rascal, the scoundrel persecuted me with unrelenting, brutal cruelty.” [P. 22]

Quincy “let matters drop,” but he concluded with a troubling indictment. “How little variant is this Gentleman from those Zealots for Liberty, who are the Enslavers of Negroes?” (p. 23). Josiah Quincy, like Abigail Adams, understood that the patriots’ use of the metaphor of slavery was at best disingenuous. As she would write to her husband John in September 1774, “I wish sincerely there was not a Slave in the province. It always appeared a most iniquitous Scheme to me – fight ourselves for what we are daily robbing and plundering from those who have as
good a right to freedom as we have." Within a decade John Alexander Hunter would be proven wrong on one point: the white men and women of Josiah Quincy's generation would not have to submit much longer to the tyranny of parliament and king. The black men and women of the Carolinas, on the other hand, would be in bondage for a great while yet to come.


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